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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,252	09/19/2003	David R. Jones IV	24935D	1138

22889 7590 04/21/2006

OWENS CORNING
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EXAMINER	
ADDIE, RAYMOND W	

ART UNIT	PAPER NUMBER
3671	

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/667,252	JONES ET AL.	
	Examiner	Art Unit	
	Raymond W. Addie	3671	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19,22 and 41-44* is/are pending in the application.

4a) Of the above claim(s) *41 and 42* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19,22,43 and 44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 41, 42 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claim 41 requires "when a load is applied to the paved surface...the mat has a load-elongation property".

Claim 42 required "a test in which a 4 ounce sample of the mat is held in an oven at 325F".

None of the originally examined claims required a load to be applied nor this test as a required step in performing the method claimed.

Therefore the invention of claims 41, 42 are distinct from the invention originally filed, since the originally filed claims did not require any testing of a sample during implementation of the method claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 41, 42 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Priority

2. Applicant provided the incorrect filing date for 10/188,447 on the Application data sheet filed 9/19/03.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 43, 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 43 recites the phrase "the mat is resistant to shrinkage such that when a 4 ounce sample of the mat is held in an oven at 325 F for one minute, the area of the mat is reduced to not less than about 90% of its original area".

However, it is unclear as to how or if this method step is to be performed every time the method is performed, or if the recitation is a further description of the mats material properties and having no relation, limitation or affect upon how the actual method steps are performed.

Is a 4 ounce sample placed in an oven at 325F for one minute before or after the applying steps are performed in claim 43?

To what affect, if any does this limitation have upon how the "applying steps" are performed?

For Examination purposes the limitation is seen only as a description of the physical properties of the mat, and not an actual method step to be performed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 19, 22, 43, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gnesa # 4,793,731 in view of Gallagher et al. # 5,869,413.

Shah et al. discloses a method of reinforcing a paved surface comprising the steps of:

Applying a layer of liquefied asphalt (unnumbered, disclosed as a tack coat in the form of AC-20 through AC-40) on a surface, such as an distressed, cracked old road surface.

Subsequently applying a reinforcement mat (unnumbered) over the cracked old road surface.

Applying a layer of paving material (unnumbered) over the reinforcement mat.

See col. 3, lns. 8-14

Wherein said reinforcement mat comprises a layer of non woven mineral fibers, such as glass fibers and polymer fillers.

What Gnesa does not disclose is the use of polymer fibers.

However, Gallagher et al. '413 teaches it is desirable to use a roadway reinforcing mat (34) having a mixture of mineral fibers and polymer fibers to reinforce and waterproof a roadway.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the method of reinforcing and water proofing a roadway of Gnesa, with the step of providing a reinforcement mat having both mineral and polymer fibers, as taught by Gallagher et al., in order to maximize the roadways resistance to moisture, corrosion and thermal flux, as reasonably suggested by Gallagher See Gallagher '413 Col. 2, lns. 5-34; Col. 9, lns. 13-50; col. 10, ln. 45-col. 11, ln. 23.

With respect to Claims 22, 44 although Gnesa does not disclose the melting point(temp.) of the mineral fibers; however Gnesa recites the use of glass, fibers. Further, it is inherent that glass fibers have a melting point above 350^0F. See Col. 3.

Response to Arguments

5. Applicant's arguments with respect to claims 19, 22, 43, 44 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment narrows the scope of the invention to a single, of the multiple species previously claimed. The amendment overcomes the rejections of the last office action, but are still considered obvious to the teachings of previously cited prior art.

Conclusion

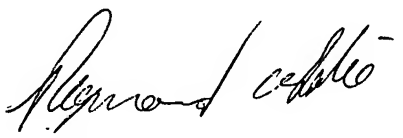
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (571) 272-6986. The examiner can normally be reached on Monday-Saturday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raymond Addie
Patent Examiner
Group 3600

RWA
12/19/2005